

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Markus Allmendinger et al.

Application No.: 10/593,656

Confirmation No.: 2857

Filed: September 21, 2006

Art Unit: 1794

For: THERMAL INSULATION COMPOSITE WITH
IMPROVED THERMAL STABILITY AND
IMPROVED FIRE RESISTANCE

Examiner: H. Vo

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed February 21, 2008, applicant hereby provisionally elects Group I, claims 10-16 and 20 for continued examination, with traverse.

The Examiner has required restriction between one of the following inventions:

- 1) Group I, claims 10-16 and 20, drawn to a thermal insulation composite; or
- 2) Group II, claims 17-19, drawn to a process of making a thermal insulation composite.

The Examiner further wants us to elect a single disclosed species for examination and identify which claims read on the elected species. The applicant elects the "species" of inventive example 1 examined. If the sequence of layers in the composite is meant as species, the composite according to inventive example 1 is described on page 2, line 35 to 38 and has the sequence:

Steel/adhesive/alkali metal silicate/EPS foam/alkali metal silicate/adhesive/steel.

All of the elected claims 10 to 16 and 20 read on the elected species.

Applicants respectfully traverse the Restriction requirement because the U.S. Patent and Trademark Office have not carried forward its burden of proof to establish distinctness.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the claimed subject matter may be classified in different classes, the inventions are not independent.

It is respectfully requested that the restriction requirement be withdrawn, and that each of claims 10-20 presently pending in this application be examined.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12810-00344-US from which the undersigned is authorized to draw.

Dated: March 6, 2008

Respectfully submitted,

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